

SECOND REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1717
96TH GENERAL ASSEMBLY

5148L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 143.173 and 143.221, RSMo, and to enact in lieu thereof two new sections relating to withholding tax returns.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 143.173 and 143.221, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 143.173 and 143.221, to read as follows:

143.173. 1. As used in this section, the following terms mean:

(1) "County average wage", the average wages in each county as determined by the department of economic development for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of this section;

(2) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income, or federal taxable income in the case of a corporation, for the tax year in which such deduction is claimed;

(3) "Full-time employee", a position in which the employee is considered full-time by the taxpayer and is required to work an average of at least thirty-five hours per week for a fifty-two week period;

(4) "New job", the number of full-time employees employed by the small business in Missouri on the qualifying date that exceeds the number of full-time employees employed by the small business in Missouri on the same date of the immediately preceding taxable year;

(5) "Qualifying date", any date during the tax year as chosen by the small business;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (6) "Small business", any small business, **including any sole proprietorship,**
18 **partnership, S-corporation, C-corporation, limited liability company, limited liability**
19 **partnership, or other business entity**, consisting of fewer than fifty full or part-time
20 employees;

21 (7) "Taxpayer", any small business subject to the income tax imposed in this chapter,
22 **including any sole proprietorship, partnership, S-corporation, C-corporation, limited**
23 **liability company, limited liability partnership, or other business entity.**

24 2. In addition to all deductions listed in this chapter, for all taxable years beginning on
25 or after January 1, 2011, and ending on or before December 31, 2014, a taxpayer shall be allowed
26 a deduction for each new job created by the small business in the taxable year. **Tax deductions**
27 **allowed to any partnership, limited liability company, S-corporation, or other pass-through**
28 **entity may be allocated to the partners, members, or shareholders of such entity for their**
29 **direct use in accordance with the provisions of any agreement among such partners,**
30 **members, or shareholders.** The deduction amount shall be as follows:

31 (1) Ten thousand dollars for each new job created with an annual salary of at least the
32 county average wage; or

33 (2) Twenty thousand dollars for each new job created with an annual salary of at least
34 the county average wage if the small business offers health insurance and pays at least fifty
35 percent of such insurance premiums.

36 3. The department of revenue shall establish the procedure by which the deduction
37 provided in this section may be claimed, and may promulgate rules to implement the provisions
38 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
39 created under the authority delegated in this section shall become effective only if it complies
40 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
41 This section and chapter 536 are nonseverable and if any of the powers vested with the general
42 assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a
43 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
44 proposed or adopted after August 28, 2011, shall be invalid and void.

45 4. Under section 23.253 of the Missouri sunset act:

46 (1) The provisions of the new program authorized under this section shall automatically
47 sunset on December thirty-first three years after August 28, 2011, unless reauthorized by an act
48 of the general assembly; and

49 (2) If such program is reauthorized, the program authorized under this section shall
50 automatically sunset on December thirty-first three years after the effective date of the
51 reauthorization of this section; and

52 (3) This section shall terminate on September first of the calendar year immediately
53 following the calendar year in which the program authorized under this section is sunset.

143.221. 1. Every employer required to deduct and withhold tax under sections 143.011
2 to 143.996 shall, for each calendar quarter, on or before the last day of the month following the
3 close of such calendar quarter, file a withholding return as prescribed by the director of revenue
4 and pay over to the director of revenue or to a depository designated by the director of revenue
5 the taxes so required to be deducted and withheld.

6 2. Where the aggregate amount required to be deducted and withheld by any employer
7 exceeds fifty dollars for at least two of the preceding twelve months, the director, by regulation,
8 may require a monthly return. The due dates of the monthly return and the monthly payment or
9 deposit for the first two months of each quarter shall be by the fifteenth day of the succeeding
10 month. The due dates of the monthly return and the monthly payment or deposit for the last
11 month of each quarter shall be by the last day of the succeeding month. The director may
12 increase the amount required for making a monthly employer withholding payment and return
13 to more than fifty dollars or decrease such required amount, however, the decreased amount shall
14 not be less than fifty dollars.

15 3. Where the aggregate amount required to be deducted and withheld by any employer
16 is less than [twenty] **one hundred** dollars in each of the four preceding quarters, **and to the**
17 **extent the employer does not meet the requirements in subsection 1 or 2 of this section for**
18 **filing a withholding return on a quarterly or monthly basis**, the employer shall file a
19 withholding return for a calendar year. The director, by regulation, may also allow other
20 employers to file annual returns. The return shall be filed and the taxes if any paid on or before
21 January thirty-first of the succeeding year. The director may increase the amount required for
22 making an annual employer withholding payment and return to more than [twenty] **one hundred**
23 dollars or decrease such required amount, however, the decreased amount shall not be less than
24 [twenty] **one hundred** dollars.

25 4. If the director of revenue finds that the collection of taxes required to be deducted and
26 withheld by an employer may be jeopardized by delay, he may require the employer to pay over
27 the tax or make a return at any time. A lien outstanding with regard to any tax administered by
28 the director shall be a sufficient basis for this action.

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